

1 **H. B. 2386**

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3 (By Delegates Hamilton and Canterbury)
4 [Introduced February 13, 2013; referred to the
5 Committee on Banking and Insurance then the Judiciary.]
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10 A BILL to amend and reenact §61-3-39c of the Code of West Virginia,
11 1931, as amended, relating to the dishonor or refusal to pay
12 checks, drafts and orders presented for payment; and setting
13 forth the reasons that must be identified when a refusal is
14 made by a drawee.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-3-39c of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

19 **§61-3-39c. Reason for dishonor; duty of drawee.**

20 It shall be the duty of the drawee of any check, draft or
21 order, before refusing to pay the same to the holder thereof upon
22 presentation, to cause to be written, printed or stamped in plain
23 language thereon or attached thereto, the reason for drawee's

1 dishonor or refusal to pay same. Reasons for dishonor or refusal
2 to pay same shall include: Nonsufficient funds, (NSF) closed
3 account, account closed, no account, no account on file, refer to
4 maker, or any other reason in plain language indicating that
5 sufficient funds were not available to satisfy payment at the time
6 the check was presented to drawee from payee. In all prosecutions
7 under section thirty-nine or thirty-nine-a of this article, the
8 introduction in evidence of any unpaid and dishonored check, draft
9 or other written order, having the drawee's refusal to pay stamped
10 or written thereon, or attached thereto, with the ~~reason therefor~~
11 ~~as aforesaid~~ reasons stated:

12 (a) Shall be prima facie evidence of the making or uttering of
13 said check, draft or other written order, and the due presentation
14 to the drawee for payment and ~~the~~ its dishonor, ~~thereof,~~ and that
15 the same was properly dishonored for the reasons written, stamped
16 or attached by the drawee on such dishonored checks, drafts or
17 orders; and

18 (b) Shall be prima facie evidence, as against the maker or
19 drawer, ~~thereof,~~ of the withdrawing from deposit with the drawee
20 named in the check, draft or other written order, of the funds on
21 deposit with such drawee necessary to insure payment of said check,
22 draft or other written order upon presentation within a reasonable
23 time after negotiation; and

24 (c) Shall be prima facie evidence of the drawing, making,

1 uttering or delivering of a check, draft or written order with the
2 knowledge of insufficient funds in or credit with such drawee.

NOTE: The purpose of this bill is set forth the reasons that must be identified when a drawee dishonors or refuses to pay a check, draft or order when presented for payment.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.